



Memorandum

TO: PLANNING COMMISSION

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: April 2, 2013

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (THE ZONING ORDINANCE) TO AMEND: SECTIONS 20.80.1110, 20.80.1130, AND 20.80.1150 OF CHAPTER 20.80 (SPECIFIC USE REGULATIONS, RECYCLING FACILITIES), TO AMEND REGULATIONS FOR REVERSE VENDING MACHINES AND UNATTENDED COLLECTION CONTAINERS IN SMALL COLLECTION FACILITIES; SECTIONS 20.100.1240 AND 20.100.1250 OF CHAPTER 20.100 (ADMINISTRATION AND PERMITS) TO AMEND REQUIREMENTS FOR DISPLAY AND TERMS OF ADMINISTRATIVE PERMITS; AND ADDING SECTIONS 20.200.877 AND 20.200.1303 OF CHAPTER 20.200 (DEFINITIONS) TO ADD DEFINITIONS FOR “PERMITTEE” AND “UNATTENDED COLLECTION CONTAINER”; ALL TO FURTHER IMPLEMENT THE MEASURABLE SUSTAINABILITY/ENVIRONMENTAL STEWARDSHIP MAJOR STRATEGY, THE MEASURABLE ENVIRONMENTAL SUSTAINABILITY GOALS AND POLICIES, AND THE LAND USE GOALS AND POLICIES SET FORTH WITHIN THE ENVISION SAN JOSE 2040 GENERAL PLAN AND TO MAKE OTHER TECHNICAL, FORMATTING OR OTHER NONSUBSTANTIVE CHANGES WITHIN THOSE SECTIONS OF TITLE 20. FILE NO. PP13-027.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend to the City Council to approve an Ordinance of the City of San José amending Title 20 of the San José Municipal Code (the Zoning Ordinance) to amend: Sections 20.80.1110, 20.80.1130, and 20.80.1150 of Chapter 20.80 (Specific Use Regulations, Recycling Facilities) to amend regulations for Reverse Vending Machines and Unattended Collection Containers in Small Collection Facilities; Sections 20.100.1240 and 20.100.1250 of Chapter 20.100 (Administration and Permits) to amend requirements for Display and Terms of Administrative Permits; and adding Sections 20.200.877 and 20.200.1303 of Chapter 20.200 (Definitions) to add definitions for “Permittee” and “Unattended Collection Container”; all to further implement the Measurable Sustainability/Environmental Stewardship Major Strategy, the Measurable Environmental Sustainability Goals and Policies, and

the Land Use Goals and Policies set forth within the Envision San José 2040 General Plan and to make other technical, formatting or other nonsubstantive changes within those sections of Title 20 (see attached Draft Ordinance).

OUTCOME

Approval of these ordinance amendments will facilitate compliance with the Zoning Ordinance by operators of unattended collection containers by: 1) clarifying and refining regulations and responsibilities for the siting, operation and maintenance of unattended collection containers on private property in order to maintain land use compatibility, appearance, and safety; 2) lowering the annual cost of an Administrative Permit to an applicant for operation of unattended collection containers; and 3) citing more specific criteria for code enforcement.

BACKGROUND

The City Council has identified unattended collection containers (commonly referred to as “donation boxes”) as problematic because these facilities lack required Planning permits, are poorly maintained, and appear to have proliferated throughout the City of San José. On some sites in the City, unattended collection containers have created visual clutter or potentially unsafe site conditions.

When properly operated, such facilities can contribute to waste reduction in the City of San José and support the Envision San José 2040 General Plan’s Measurable Environmental Sustainability Goals and Policies that encourage waste reduction:

Goal MS-5 – Waste Diversion

Divert 100% of waste from landfills by 2022 and maintain 100% diversion through 2040.

Policies – Waste Reduction

- **MS-6.5** Reduce the amount of waste disposed in landfills through waste prevention, reuse, and recycling of materials at venues, facilities, and special events.
- **MS-6.8** Maximize reuse, recycling, and composting citywide.

Policies – Service Delivery

- **MS-9.6** Provide convenient locations for collection of household hazardous wastes and bulk wastes.
- **MS-9.7** Improve customer convenience with a broad range of collection programs and service options.

Current Permitting Requirements and Regulations

As categorized in the Zoning Ordinance, unattended collection containers can comprise a portion or all of a Collection Facility, which the Zoning Ordinance defines as “a facility for the deposit or drop-off of recyclable materials. Such a facility does not do processing except limited baling, batching, and sorting of materials other than glass.”

Most unattended collection containers meet the criteria for a "Small Collection Facility," which the Zoning Ordinance defines as, "a facility that occupies an area of no more than five hundred (500) square feet and that accepts by donation, redemption, or purchase beverage containers with California redemption value, metals, paper, and other recyclable materials, as defined in this Chapter, except for motor oil and other hazardous materials. Acceptable recyclable materials are delivered to the site by the general public; and, such a facility does not accept materials from commercial vehicles. A Small Collection Facility performs minimal preparation of recyclable material prior to transfer to a processing facility. Preparation may include baling, can flattening, or like methods use to reduce the mass of recyclables to facilitate efficient transport of materials. A Small Collection Facility may include mobile recycling units, unattended containers, boxes, cans, kiosk-type units, bulk reverse vending machines, roll-off bins, and/or other containers or receptacles. Such a facility also may include a properly licensed automobile, truck, trailer, or van."

Section 20.80.1100 of the Zoning Ordinance requires permits for placement, construction, or operation of a Small Collection Facility. With issuance of an Administrative Permit, which is a permit that can be approved by the Director of Planning without a public hearing if specific criteria are met, Small Collection Facilities can be allowed in Commercial, Industrial, and Pedestrian Oriented Zoning Districts.

With a Special Use Permit, which is a permit that can be approved by the Director of Planning after a public hearing and only if findings as required in the Zoning Ordinance are made, Small Collection Facilities can be allowed in Downtown Zoning Districts. The Zoning Ordinance does not allow Small Collection Facilities in the OS-Open Space or A-Agricultural Zoning Districts or in any Residential Zoning District.

The property owner must sign the applicable Planning permit application for unattended collection containers. The Administrative Permit application also requires the operator to sign a declaration stating that the applicant understands that the subject permit is not transferrable or assignable, accepts stated conditions, and understands that the subject permit is subject to revocation if the use is conducted in such a manner as to cause a nuisance as defined by Title 20 of the San José Municipal Code (see attached Administrative Permit application form).

Council Direction for Ordinance Amendments

At the January 25, 2012 Rules Committee meeting, the Committee requested that information be provided to the City Council regarding the City's processes for the review and permitting of unattended collection containers. In response to this request, Planning staff provided an Information Memorandum to the City Council that was distributed February 21, 2012 (<https://www.piersystem.com/external/content/document/1914/1314535/1/02-21-12%20PBCE.PDF>).

On February 13, 2012, the City Council included unattended collection containers in their top 10 priorities for ordinance amendments. The land use issues to be addressed include the siting and upkeep of these facilities to avoid blight and hazards.

ANALYSIS

After considering public input from several community meetings and reviewing the effectiveness of the City's current permit procedures, Planning staff recommends additions and revisions to the existing definitions and regulations in the Zoning Ordinance and revising specific standard conditions in Planning permits for unattended collection containers.

Proposed Definitions

To provide clarification to applicants regarding responsibilities for siting and maintenance of these facilities, staff proposes to add definitions for "Permittee" and "Unattended Collection Containers" in the Zoning Ordinance (Sections (Section 20.200.877 and 20.200.1303), as follows:

- "Permittee" means the person(s) or entity(ies) to whom a permit has been issued pursuant to the provisions of this Title.
- "Unattended Collection Container" means a box or other container less than or equal to five hundred (500) square feet in area, less than or equal to twelve (12) feet in height, and not attended by a person during at least part of the time that it is in use and that may be included in a Small Collection Facility.

Siting and Maintenance

There are several existing provisions in the Zoning Ordinance for siting and maintenance of unattended collection containers such as: 1) clearly marking containers to identify the name and telephone number of the facility operator; 2) not impairing the landscaping for any concurrent use; 3) not displacing required parking for the host business; and 4) daily removing materials outside the containers.

To improve site integration and maintenance of unattended collection containers with the primary building on-site (referred to in the Zoning Ordinance as the Fixed-base Host building) staff proposes the following additional regulations, compliance of which would be the joint responsibility of the property owner and permittee:

- Keep the containers clean and sanitary, and maintain containers to repel and keep away flies, vermin, birds and rodents.
- Maintain the recycling containers to be free of graffiti, and remove any graffiti from such containers on at least a daily basis.
- Be responsible for disposal of any hazardous material placed in the container or dropped off at the permittee's facility.
- Display copy of permit conspicuously on a publicly visible location on the unattended collection container.

Staff also recommends the following a standard condition in permits issued for unattended collection containers:

- Comply with all applicable local, State, and Federal regulations including, but not limited to, the San José Municipal Code and the California Welfare and Institutions Code Section 150-153.

Setbacks

Currently the Zoning Ordinance requires that the location of unattended collection containers must comply with all setbacks for buildings in applicable zoning districts and that the containers be set back at least ten (10) feet from any street line (i.e., the nearest edge of the street right-of-way). The Zoning Ordinance also requires that the containers be situated on a site so as not to obstruct on-site or off-site pedestrian or vehicular circulation.

Staff proposes to supplement these regulations by implementing additional standard permit conditions that would require the containers not to be placed within fifteen (15) feet of a residentially zoned or residentially used lot, and that the color of the container match or blend with the colors of the enclosure or structure in which the container is located or to which the container is adjacent.

Permit Duration

The Zoning Ordinance currently requires an initial term of one year and a renewal term of two years for an Administrative Permit. In order to encourage operators to obtain an Administrative Permit, staff proposes to lengthen the maximum allowable initial term to three years and the renewal term to five years, which would effectively lower operators' annual costs of compliance once they have made the upfront investments in acquiring permits.

Enforcement

To facilitate code enforcement of the existing and proposed regulations for unattended collection containers, staff proposes to add a provision to the Zoning Ordinance that states:

Upon the failure to remove said materials from areas on the site that are visible to or open to the general public, the City may revoke any approvals issued by the City for the respective Recycling Facility, Collection Facility, Transfer Facility, or Processing Facility in the manner allowed by this Code for such revocation.

In May, staff also intends to propose to the City Council that the Council modify the current Fines Schedule to increase and add fines that Code Enforcement staff can use in citing property owners or permittees for noncompliance with applicable regulations in the Zoning Ordinance.

General Plan Conformance

As proposed by Planning staff, the regulations associated with unattended collection containers is consistent with Measurable Environmental Sustainability Goals and Policies to reduce, re-use, and recycle waste in the City that contributes to the City's economic and environmental well-being. Staff's proposed ordinance is intended to help implement these Goals and Policies in conformance with the General Plan.

Conclusion

Many of the existing unattended collection containers on private property in the City of San José appear to be unpermitted and improperly maintained. With staff's recommended changes to the Zoning Ordinance and the inclusion of the proposed standard permit conditions discussed previously in this staff report, property owners and unattended collection container operators should have a clearer understanding of their responsibilities in the operation and maintenance of these facilities, and their upkeep should be improved, consistent with Council direction.

EVALUATION AND FOLLOW-UP

PBCE staff will continue to monitor and enforce compliance of unattended collection containers with Zoning Ordinance regulations and applicable permit conditions.

PUBLIC OUTREACH/INTEREST

Staff posted information about the proposed ordinance on the Planning Division website and engaged the public on issues regarding potential Zoning Ordinance changes for unattended collection containers during three community meetings held on June 4 and November 15, 2012 and on March 21, 2013. Community members and industry representatives attended all these meetings, and commented on the effectiveness of existing and proposed regulations. Additionally, the proposed changes were discussed at the PBCE Developers' Roundtable Meeting on March 1, 2013. Staff has also corresponded with the public by e-mail and by telephone.

Comments by Stakeholders

The attendees generally encouraged the City to educate the public on where to recycle and to inform property owners of their responsibilities for unattended collection containers that are on property owners' sites. They said that enforcement of regulations should prioritize targeting unpermitted unattended collection containers, and they suggested more monitoring of installed unattended collection containers to improve correct implementation of existing Zoning Ordinance regulations.

Some industry representatives stated that the current permitting requirements are almost cost-prohibitive based on typical collection box revenue. These speakers said cost recovery on business operations can take approximately three years, and they noted that the operators of unattended collection containers for donations of used clothes can help divert tons of clothing from landfills in San José, thereby providing community benefits consistent with San José's recycling goals.

Other industry representatives involved with donations and recycling operations stated that permitting costs or fines for enforcement may need to be raised and more consistently implemented to cover the costs of expanded and more consistent code enforcement of unattended collection containers so that all such containers follow the same rules on a level playing field. One of these representatives said his top four priorities are compliance, enforcement, economic development, and civic benefit. He added that the City should enforce compliance and issue fines for noncompliance, and, when considering who should be granted permits for unattended

collection containers, the City should take into consideration economic development at the local level and civic benefit to people who live in the community.

Many attendees wanted the regulations to clarify criteria for the display of permit information, the siting of containers far back from a property's street frontage, and to ensure that such containers not block storm drains or sewer openings. Other attendees wanted more measures that would prevent containers from being converted into illegal homeless encampments.

One industry representative asked whether the City of San José would implement SB450 (a pending State Senate bill regarding notification procedures for property owners who remove unattended collection containers placed by others). Staff responded that if the bill is passed, the staff could propose additional code changes to applicable sections of the San José Municipal Code.

Although not a land use issue, and, therefore, not within the purview of the Zoning Ordinance, some representatives of charitable organizations expressed concerns that unattended collection containers can be operated for profit, and negatively impact the level of donation of recyclable goods that charitable organizations collect. The State of California Welfare and Institutions Code Sections 150-153 require specific contact information and disclosure of charitable versus for-profit status of the collection facility operator

(<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=150-153>).

Enforcement of these State regulations would be through the State Attorney General's office.

Staff Response

To the extent feasible by State law and where practical within the scope of the Zoning Ordinance, staff's recommended ordinance changes address many of the above-mentioned comments. The proposed amendments could provide: 1) permits at a lower cost to applicants; 2) more specific provisions to clarify responsibilities for siting and maintenance of unattended collection containers; 3) and opportunities for more consistent and effective code enforcement.

COORDINATION

Preparation of this report and the proposed ordinance were coordinated with the City Attorney's Office.

CEQA

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Envision San José 2040 General Plan Program. Accordingly, the Final Program Environmental Impact Report (PEIR) for the Envision San José 2040 General Plan entitled, "Envision San José 2040 General Plan," for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, adequately describes the activity for the purposes of CEQA. The project does not involve new significant effects beyond those analyzed in this Final PEIR. Therefore, the City of San José may take action on the project as being within the scope of the Final PEIR, File No. PP13-027.


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Jenny Nusbaum, Senior Planner at 408-535-7872.

Attachments: Draft Ordinance Amendment
Administrative Permit application form
Public Correspondence

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (THE ZONING ORDINANCE) TO AMEND: SECTIONS 20.80.1110, 20.80.1130, AND 20.80.1150 OF CHAPTER 20.80 (SPECIFIC USE REGULATIONS, RECYCLING FACILITIES), TO AMEND REGULATIONS FOR REVERSE VENDING MACHINES AND UNATTENDED COLLECTION CONTAINERS IN SMALL COLLECTION FACILITIES; SECTIONS 20.100.1240 AND 20.100.1250 OF CHAPTER 20.100 (ADMINISTRATION AND PERMITS) TO AMEND REQUIREMENTS FOR DISPLAY AND TERMS OF ADMINISTRATIVE PERMITS; AND ADDING SECTIONS 20.200.877 AND 20.200.1303 OF CHAPTER 20.200 (DEFINITIONS) TO ADD DEFINITIONS FOR "PERMITTEE" AND "UNATTENDED COLLECTION CONTAINER"; ALL TO FURTHER IMPLEMENT THE MEASURABLE SUSTAINABILITY/ENVIRONMENTAL STEWARDSHIP MAJOR STRATEGY, THE MEASURABLE ENVIRONMENTAL SUSTAINABILITY GOALS AND POLICIES, AND THE LAND USE GOALS AND POLICIES SET FORTH WITHIN THE ENVISION SAN JOSE 2040 GENERAL PLAN AND TO MAKE OTHER TECHNICAL, FORMATTING OR OTHER NONSUBSTANTIVE CHANGES WITHIN THOSE SECTIONS OF TITLE 20

SECTION 1. Section 20.80.1110 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.1110 Permits for Multiple Reverse Vending Machines or Multiple Small Collection Facilities on Multiple Sites

A single administrative permit may be granted to allow more than one (1) reverse vending machine or more than one (1) small collection facility, even if located on different sites, but only if all of the following criteria and conditions are fully met:

1.A. The operator of each of the proposed machines and/or facilities is the same;

B. The real property owner of each of the proposed sites is the same;

- 2.C. All of the applicable criteria and standards set forth in this ~~p~~Part are met for each such proposed machine and/or facility; and
- 3.D. The proposed machines and/or facilities are determined by the ~~d~~Director to be similar in nature, size, and intensity of activity.

SECTION 2. Section 20.80.1130 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.1130 Criteria and Standards

- A. Each owner of a site on which a recycling facility is to be located and each operator of the recycling facility shall first obtain Those recycling facilities permitted with an administrative permit to allow that recycling facility to be located and operate on the site. Each owner of a site on which a recycling facility is allowed to be located with an administrative permit and each operator of the permitted recycling facility shall thereafter be required to take all reasonable steps to ensure that the recycling facility meets all of the applicable criteria and standards listed below. Those recycling facilities permitted with a site development permit, special use permit, or conditional use permit shall meet the applicable criteria and standards listed below, provided that the ~~d~~Director, ~~p~~Planning ~~e~~Commission, or ~~e~~City ~~e~~Council, as the case may be, may relax such standards or impose stricter standards as set forth in that permit as an exercise of discretion, upon a finding that such modifications are reasonably necessary in order to implement the general intent of this ~~p~~Part and the purposes of this ~~t~~Title at a particular site. The criteria and standards for recycling facilities are as follows:
- B. Reverse Vending Machines.
 - 1. Shall be established only in conjunction with a Fixed-base Host business which is in compliance with all applicable provisions of the San José Municipal Code, including without limitation the Zoning, Building and Fire ~~e~~Codes of the City of San José;
 - 2. Shall be located within fifteen (15) feet of the a primary building entrance of the Fixed-base HHost business and shall not obstruct pedestrian or vehicular circulation;
 - 3. Shall be constructed and maintained with durable waterproof and rustproof material and shall be covered;

4. Shall be clearly marked to identify the type of material to be deposited;
5. Shall be allowed Sign-area shall be a maximum of four (4) square feet of sign area, and all sign(s) shall be attached to the respective machines or facility;
6. Shall, in the aggregate, number be no more than three (3) machines and/or facilities per Fixed-base Host business;
7. Shall be no more than fifty (50) cubic feet in bulk and no more than eight (8) feet in height.
8. Reverse vending machines located indoors do not require any permits under this title.

C. Small Collection Facilities

1. The A Small Collection Facility shall be established only in conjunction with a Fixed-base Host business in compliance with all applicable provisions of the San José Municipal Code, including without limitation the Zoning, Building and Fire Codes of the City of San José;
2. A Small Collection Facility shall be operated and maintained as a facility for the deposit or drop-off of Recyclable Material;
- 2.3. All containers of a Small Collection Facility shall be constructed and maintained with durable, vector-resistant, watertight, waterproof and rustproof material and shall be covered;
4. The recycling containers of a Small Collection Facility shall be kept clean and sanitary and shall be maintained in a manner that repels and keeps away flies, vermin, birds and rodents;
5. The recycling containers of a Small Collection Facility shall be maintained free of graffiti, and any graffiti shall be removed from such recycling containers on at least a daily basis;
- 3.6. All containers of the Small Collection Facility shall be clearly marked to identify the type of recyclable or recyclables which may be deposited;

- 4.7. The Small Collection Facility shall be clearly marked to identify the name and telephone number of the facility-operator of the Small Collection Facility and the owner of the site on which the Small Collection Facility is located;
- 5.8. The site on which the Small Collection Facility is located shall be swept and maintained in a dust-free, litter-free condition on at least a daily basis;
- 6.9. The Small Collection Facility shall be placed and maintained on a site in compliance with the Americans with Disabilities Act so as and shall not to obstruct on-site or off-site pedestrian or vehicular circulation;
- 7.10. The Small Collection Facility shall be set back at least ten (10) feet from any street line the nearest edge of any street right of way;
- 8.11. The Small Collection Facility shall not impair the landscaping required for any concurrent use of the site by this Title or any permit issued pursuant thereto;
- 9.12. The noise level created by the operation of the Small Collection Facility shall not at any time exceed 55 dBA as measured at the property line of residentially zoned or occupied property; otherwise and shall not exceed 70 dBA as measured at all other adjacent property lines of the site;
- 10.13. The Small Collection Facility shall not include power-driven sorting and/or consolidation equipment, such as crushers or balers; bulk reverse vending machines may be permitted;
- 11.14. Signs may be provided on a Small Collection Facility as follows:
- a. An Unattended Collection Container not over fifty (50) cubic feet in bulk and not over eight (8) feet in height may have a maximum sign area of four (4) square feet; and
 - b. Other containers or units may have one (1) flat-mounted sign per side of container or wall of enclosure of twenty percent of the surface of the side or six (6) square feet, whichever is greater;

12.15. The minimum average illumination of the portion of the site on which the Small Collection Facility is located shall be 1/2 foot-candle;

13.16. Use of the Small Collection fFacility for collection of solid waste or hazardous material waste, as defined in Sections 9.10.280 and 9.10.150 of Title 9 of this Code, is prohibited;

14.17. The Small Collection fFacility shall be removed from site on the day following permit expiration;

15.18. Attended Small Collection fFacilities ~~shall~~may be in operation only during ~~those~~the hours ~~that of operation of the~~ Fixed-base hHost business is in operation; and

16.19. The Small Collection fFacility shall conform to all development regulations for the zoning district in which it is located; for an attended Small Collection fFacility, a minimum of one (1) parking space per attendant shall be provided;

17.20. The Small Collection fFacility shall be located in such a manner that any required parking for the Fixed-base hHost business is not displaced; and

21. The Permittee shall be responsible for the proper disposal of any hazardous material or other solid waste that is placed in the container or otherwise dropped off at the Permittee's Small Collection fFacility.

D. Transfer Facilities.

1. Operations shall take place within a fully enclosed building or:
 - a. Within an area enclosed by a solid wood or masonry fence at least six (6) feet in height; and
 - b. At least one hundred fifty (150) feet from property planned, zoned or occupied for residential use;
2. Setbacks from property lines shall be those provided for in the zoning district in which the facility is located, but if such setback is less than twenty-five (25) feet, then the Transfer fFacility shall be

buffered by a landscape strip at least ten (10) feet wide along each property line;

3. If the Transfer fFacility is located within five hundred (500) feet of property planned, zoned or occupied for residential use, it shall not be in operation between the hours of 7:00 P.M. and 7:00 A.M.;
4. Noise levels s from Transfer Facility operations shall not exceed 55 dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed 70 dBA from all other property lines;
5. Sign criteria shall be those provided for the zoning district in which the Transfer fFacility is located.

E. Processing Facilities.

1. Operations shall take place within a fully enclosed building or:
 - a. Within an area enclosed by a solid wood or masonry fence at least six (6) feet in height; and
 - b. At least one hundred fifty (150) feet from property planned, zoned or occupied for residential use;
2. Setbacks from property lines shall be those provided for in the zoning district in which the Processing fFacility is located, but if such setback is less than twenty-five (25) feet, then the Processing fFacility shall be buffered by a landscape strip at least ten (10) feet wide along each property line;
3. If the Processing fFacility is located within five hundred (500) feet of property planned, zoned or occupied for residential use, it shall not be in operation between the hours of 7:00 P.M. and 7:00 A.M.;
4. Noise levels s from Processing Facility operations shall not exceed 55 dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed seventy (70) dBA from all other property lines;
5. Sign criteria shall be those provided for the zoning district in which the Processing fFacility is located.

F. Composting Facilities.

1. Setbacks of all outdoor uses including, but not limited to, compost heaps and structures, shall be those provided for in the zoning district in which the composting facility is located, but shall not be less than twenty-five (25) feet;
2. A landscape strip of at least fifteen (15) feet in width shall be provided along all property lines;
3. Noise levels of composting facility operations shall not exceed fifty-five (55) dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed seventy (70) dBA from all other property lines;
4. Sign criteria shall be those provided for in the zoning district in which the composting facility is located;
5. Sufficient water shall be available on site to put out any fire which may occur;
6. The stockpiling of composted material, and the composting and processing of such material, shall be accomplished in a manner which will protect the health and safety of all composting facility employees.
7. Composting Facilities where mixed waste is composted shall be enclosed by a solid wood or masonry fence. Sufficient slope shall be provided to allow the drainage of all water; and
8. All composting facilities shall be maintained in a manner that repels and keeps away flies, vermin, birds and rodents (i.e., free of pests) and shall not constitute a nuisance in terms of odor or dust.

SECTION 3. Section 20.80.1150 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.1150 Site Clean-up Required

The owner or operator, and host business of any rRecycling Facility, Small eCollection Facility, tTransfer Facility, or pProcessing fFacility shall cause or ensure that, on at least a daily basis, remove any and all recyclable materials or

refuse ~~which-that~~ have accumulated or ~~is~~are deposited outside the container, bins, or enclosures intended as receptacles for such materials are removed from the respective fFacility's location. Upon the failure to remove said materials from areas on the site that are visible to or open to the general public, the City may ~~deem them to be abandoned and may enter the site to remove the materials~~ revoke any approvals issued by the City for the respective rRecycling Facility, eCollection Facility, tTransfer Facility, or pProcessing fFacility in the manner allowed by this Code for such revocation.

SECTION 4. Section 20.100.1240 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1240 Display of Permit

- A. A copy of the permit issued hereunder shall be conspicuously posted on a window, door, or other appropriate location of the business premises in a manner visible to the public at all times. The permit shall notify the public that any complaints with regard to the use authorized by such permit may be reported to the Director.
- B. Notwithstanding ~~s~~subsection A above, a permit for a utility structure does not need to be displayed. However, the permit number, or other mutually agreeable identification system, shall be permanently displayed on a readily visible location on the structure.
- C. Notwithstanding Subsection A above, a copy of the permit issued for an Unattended Collection Container shall be conspicuously displayed in a publicly visible location on the Unattended Collection Container.

SECTION 5. Section 20.100.1250 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1250 Term

- A. A permit issued pursuant to this Part shall be initially issued for a period of ~~one-up to three (3)~~ three (3) years. Whenever a permit is reissued, it may be granted for a period of up to ~~two~~ five (5) years. The applicant shall submit an application for a new permit term at least fifteen (15) days prior to the expiration of the term of any permit issued hereunder.

- B. Notwithstanding ~~s~~Subsection A above, a permit for a utility structure shall have no time limit.

SECTION 6. Chapter 20.200 of Title 20 of the San José Municipal Code is amended to add a new section, to be numbered, entitled and to read as follows:

20.200.877 Permittee

"Permittee" means the person(s) or entity(ies) to whom a permit has been issued pursuant to the provisions of this Title.

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SECTION 7. Chapter 20.200 of Title 20 of the San José Municipal Code is amended to add a new section, to be numbered, entitled and to read as follows:

20.200.1303 Unattended Collection Container

"Unattended Collection Container" means a box or other container less than or equal to five hundred (500) square feet in area, less than or equal to twelve (12) feet in height, and not attended by a person during at least part of the time that it is in use and that may be included in a Small Collection Facility.

PASSED FOR PUBLICATION of title this _____ day of _____ 2013, by the follow vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

ATTEST:

CHUCK REED
Mayor

TONI J. TABER, CMC
Acting City Clerk



CITY OF SAN JOSE
Planning, Building and Code Enforcement
c/o Development Services, Planning Counter
200 East Santa Clara Street, Tower-1
San José, CA 95113-1905
Website: www.sanjoseca.gov/planning

ADMINISTRATIVE PERMIT APPLICATION

(RECYCLING FACILITIES -- SEE ADDITIONAL INSTRUCTIONS)

Permit for the placement of a maximum of 3 reverse vending machines of no more than 50 cubic feet in bulk and no more than 8 feet in height and/or for the placement of collection containers occupying an area not to exceed 500 square feet outdoors in the Commercial, Industrial and PD Zoning Districts.

TO BE COMPLETED BY PLANNING STAFF			
FILE NUMBER AP		RECEIPT # _____	
PROPERTY LOCATION		DATE _____	
ZONING	PD ZONING FILE #	AMOUNT _____	
QUAD #	PERMIT FILE#	BY _____	
SUBJECT TO CONDITIONS		<input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE _____ BY _____
TO BE COMPLETED BY THE APPLICANT (PLEASE PRINT OR TYPE)			
PROPERTY LOCATION			
ASSESSOR'S PARCEL NUMBER(S)			
PRINT NAME OF APPLICANT BUSINESS			
PRINT NAME OF CONTACT PERSON			
ADDRESS		CITY	STATE ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	
SIGNATURE			DATE
PROPERTY OWNER			
PRINT NAME OF PROPERTY OWNER			
ADDRESS		CITY	STATE ZIP CODE
SIGNATURE			DATE

Please continue to PAGE 2...

PLEASE MAIL THIS APPLICATION TO THE ADDRESS LISTED AT THE TOP OF THE PAGE OR SUBMIT THIS APPLICATION IN THE DROP-OFF BOX LOCATED AT THE PLANNING INFORMATION COUNTER (NEAR WINDOW#33) AT THE DEVELOPMENT SERVICES CENTER, 1ST FLR, CITY HALL.

ADMINISTRATIVE PERMIT APPLICATION

FILE NUMBER AP

In addition to the completed application, the following items are required:

- ☐ **FILING FEE** (see fee schedule)
- ☐ **ASSESSOR'S PARCEL MAP** marked with the project location.
- ☐ **PHOTOGRAPHS** of existing building and proposed location for recycling facility.
- ☐ **THREE (3) COPIES** of the development plans that include:
- a. A **site plan drawn to scale** showing the location of the proposed recycling facility on the subject property.

CONDITIONS OF APPROVAL

FOR REVERSE VENDING MACHINES

I hereby declare that reverse vending machines:

1. Shall be established in conjunction with a fixed base host business which is in compliance with the zoning, building and fire codes of the City of San Jose;
2. Shall be located within 15 feet of the entrance of the host business and shall not obstruct pedestrian or vehicular circulation;
3. Shall be constructed and maintained with durable waterproof and rustproof material and shall be covered;
4. Shall be clearly marked to identify the type of material to be deposited;
5. Sign area shall be maximum of four (4) square feet, and sign(s) shall be attached to the machines;
6. Shall be no more than 3 machines per host business; and
7. Shall be no more than 50 cubic feet in bulk and no more than 8 feet in height.

FOR COLLECTION FACILITIES

I hereby declare that:

1. Facility shall be established in conjunction with a fixed base host business which is in compliance with the zoning, building and fire codes of the City of San Jose;
2. Containers shall be constructed and maintained with durable, waterproof and rustproof material and shall be covered;
3. Containers shall be clearly marked to identify the type of recyclable or recyclables which may be deposited;
4. Facility shall be clearly marked to identify the name and telephone number of the facility operator;
5. Site shall be swept and maintained in a dust-free, litter-free condition on a daily basis;
6. The facility shall be placed on a site so as not to obstruct on-site or off-site pedestrian or vehicular circulation;
7. Enclosures shall be provided for attended facilities;
8. Facility shall be setback at least 10 feet from any street line;
9. The facility shall not impair the landscaping required for any concurrent use by this Title or any permit issued pursuant thereto;
10. Noise level shall not at any time exceed 55 dBA as measured at the property line of residentially zoned or occupied property; otherwise shall not exceed 70 dBA;
11. Facility shall not include power-driven sorting and/or consolidation equipment, such as crushers or balers; bulk reverse vending machines may be permitted;
12. Signage: unattended containers not over 50 cubic feet in bulk and not over eight (8) feet in height shall have no more than four (4) square feet of sign area; and other containers or units shall have one flat-mounted sign per side of container or wall of enclosure of twenty (20) percent of the surface of the side or six (6) square feet, whichever is greater;
13. The minimum average illuminated on the site shall be 1/2 foot-candle;
14. Use of the facility for collection of refuse or hazardous waste, as defined in Section 9.10.280 and 9.10.150 of Title 9, is prohibited;
15. For an attended facility, a minimum of one (1) parking space per attendant shall be provided;
16. The facility shall be located in such that any required parking for the host business is not displaced.
17. Facility shall be removed from site on the day following permit expiration;
18. Attended facilities shall be in operation only during the hours of operation of the host business; and
19. The facility shall conform to all development regulations for the zoning district in which it is located.

I understand that this permit is not transferrable or assignable.

I hereby accept the above stated conditions and understand that this permit is subject to revocation if it is conducted in such a manner as to cause a nuisance as fined by Title 20 of the San Jose Municipal Code.

I hereby declare, under penalty of perjury, that the foregoing information given by me is true and correct and that the Administrative permit issued herein will be maintained in conformity to each and every one of the aforementioned conditions.

SIGNATURE OF
APPLICANT

X

DATE & PLACE